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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,087	11/17/2003	Richard Dobrowolski	A01588 US	7008

21898 7590 09/07/2004
ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,087

Applicant(s)

DOBROWOLSKI, RICHARD

Examiner

Katarzyna Wyrozebski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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In view of the interview conducted on 6/24/2004 and applicant's response filed on 7/8/2004 following non-final office action is issued. Applicant's petition dated 7/12/2004 has been entered however no decision has been made.

In view of the applicant's response, which further gave the examiner better understanding of the use of mineral oils as dust suppressants as a common practice in the art the prior art of record as stated in previous office action is not overcome and is incorporated here by reference.

Priority

In view of the above 102(f) rejection stated below, since the inventive entity is not the same, the examiner questions applicants right to claim priority to application 09/871,467 as a continuation. In addition, per MPEP requirements, applicant's domestic priority should be included in the first paragraph of the specification.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter.

With respect to the above rejection, the present invention claims the subject matter of PG PUB 2002/0188055 to Chen, which Publication discloses different inventive entity and different assignment.

With respect to the above rejection, the applicant's petition for change of inventorship was denied. In view of the above rejection is not withdrawn.

The applicants in their response indicated that they believe that Owens Corning has neglected to name Mr. Dombrowski as co-inventor.

With respect to the above argument, it is not examiner's responsibility to determine such instances, but to examine facts presented at the time of examination. Even if applicant's petition

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will be granted, the inventive entity of the parent application will still be different from that of the present invention.

3. Claims 1, 2, 4-19 are rejected under 35 U.S.C. 102(b) as being anticipated by HUMMERICH (US 6,071,994) in view of evidence in CHEN (US 6,274,366) or EP 567,480.

The prior art of HUMMERICH discloses composition for aqueous binders comprising following:

Polycarboxy binder (col. 2, lines 30-41)

Polyhydroxy crosslinking agents (col. 6, lines 9-40),

Surfactants (col. 6, line 55-col. 7, line 19)

Coupling agents and

Oil dust suppressing oils (col. 10, lines 48-53).

Steps of the process outlined in claim 17 of the present invention are discussed in applicant's information disclosure statement mailed on 3/3/2004 (In document of CHEN col. 5-6).

In one of the examples (col. 12) it is evident that the amount of water in binder solutions is utilized in such amounts that the solids are in 15-50.2 %.

IN the light of the above disclosure, the prior art of HUMMERICH anticipates requirements of claims rejected above.

4. Claims 1, 2, 4-19 are rejected under 35 U.S.C. 102(b) as being anticipated by RECK (US 6,099,773) in view of evidence in CHEN (US 6,274,366) or EP 567,480.

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The prior art of Reck discloses composition for a binder system utilized with fibers, which comprises polymer, crosslinking agent and surfactant.

According to the examples the polymer utilized in the prior art of Reck (col. 10) includes polyacrylic acid, as well as its copolymer with maleic acid. The crosslinking according to the same examples is triethanolamine amine. Crosslinking agents are utilized in an amount of 10 ppm to 5% by weight (col. 6, line 7).

According to the specification of the prior art of Reck, one of ordinary skill in the art is also enabled to utilize emulsifiers such as ethylene oxide/propylene oxide copolymers (col. 6, line 20), which is also well known surfactant. Other emulsifiers, which can also be utilized are surfactants include alkyl phenol ethoxylates, fatty acids ethoxylates, sulfur containing alkyl phenols. Such compounds can be utilized in an amount of 0.05-20 wt %.

The prior art of Reck forms aqueous composition, having solids content of 44.5 and 50 % (see examples, col. 10).

The process involves steps of applying binder composition to fibers by spraying and curing it (col. 9, lines 30-55). Sprayed fibers are then pressed at a temperature of 100-250°C for 15 sec-30 min. to give stable product.

The prior art of CHEN further provides for otherwise common in the art process of preparing fiber glass mats and use of oils (col. 5 and 6).

In the light of the above disclosure, the prior art of RECK in view of evidence given in CHEN anticipates requirements of claims rejected above.

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5. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by CHEN (US 20020188055).

The disclosure of CHEN as applied against present claims teaches applicant's invention, with claims being very similar. The subject matter is taught. Since the inventive entities and assignee in the prior art of CHEN are different from that of the present invention, double patenting rejection would not be proper.

In the light of the above disclosure, the prior art of CHEN anticipates requirements of claims rejected above.

102(e) rejection over the prior art of CHEN has been stated, since at this time applicants have different assignment and different inventive entity wherein its priority claim as a continuation to parent is not considered as valid.

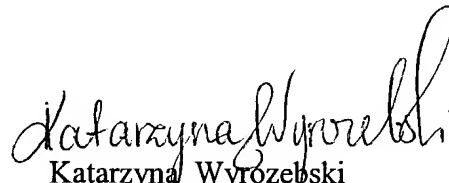
The examiner also acknowledges applicant's statement regarding initiation of the interference proceedings with parent application. Since neither parent nor child application contain allowable subject matter at this point, interference is not initiated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski whose telephone number is (571) 272-1127. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Katarzyna Wyrozebski
Primary Examiner
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September 1, 2004